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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/088,007

06/24/2002

Frederic Maillard

M109.12-0001

4925

7590

06/16/2004

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EXAMINER

WALLS, DIONNE A

ART UNIT

PAPER NUMBER

1731

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/088,007

Applicant(s)

MAILLARD ET AL.

Examiner

Dionne A. Walls

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-21 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5, 9-10, 18, 20-21, 27 and 29 is/are rejected.
- 7) ☒ Claim(s) 6-8, 11-17, 24-26 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC §103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2-5, 9-10, 18, 20-21, 27 and 29 are rejected under 35 U.S.C. 103(a) as obvious over GB 2,155,756.

GB 2,155,756 discloses nearly all that is recited in the claims, since it teaches a cigarette filter member for removing harmful components being made of a non-woven fabric provided with an adsorbent which is composed with substances - one of which is dry yeast (corresponding to the claimed "active ingredient comprising molecules formed by one or more nitrogen-containing cycles or heterocycles") in the amount of 66.7 mg. For a filter having a mass of 200 mg, the mass of active ingredient of about 33.5 % of the mass of the filter (corresponding to the claimed "active ingredient....larger than or equal to 0.1% of the mass of the filter". While there may be no specific articulation regarding the filter medium having a basic pH, it follows that absent any articulation which indicates that acidic conditions are present (i.e. the addition of ascorbic acid), one having ordinary skill in the art would have obviously provided the filter of GB 2,155,756 with a pH of more than 7 or 8.

3. Claims 2-5, 9-10, 20-21, 27 and 29 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over EP 058,463.

EP 058,463 discloses nearly all that is recited in the claims, since it teaches a cigarette filter member for removing harmful components being made of a non-woven fabric provided with an adsorbent which is composed with substances - one of which is active dry yeast (corresponding to the claimed "active ingredient comprising molecules formed by one or more nitrogen-containing cycles or heterocycles") in the amount of 500 mg. This would imply a filter portion weighing at least 500 mg, which would certainly provide for a filter having an active ingredient percentage of more than 0.1 % (probably about 100%), especially since it's clear that the EP 058463 reference intends to provide a filter having a filter segment which comprises the active dried yeast (corresponding to the claimed "active ingredient....larger than or equal to 0.1% of the mass of the filter". While there may be no specific articulation regarding the filter medium having a basic pH, it follows that absent any articulation which indicates that acidic conditions are present (i.e. the addition of ascorbic acid), one having ordinary skill in the art would have obviously provided the filter of EP 058,463 with a pH of more than 7 or 8.

Allowable Subject Matter

4. Claims 6-8, 11-17, 24-26 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed March 25, 2004, with respect to the GB 2,155,756 and EP 058,463, have been fully considered but they are not persuasive.

Applicant argues that these references do not contain the claimed percentage of nitrogen-containing cycles or heterocycles; however, it is noted that Applicant has not recited, in the independent claims, that there be a certain percentage of nitrogen-containing cycles of heterocycles, but *rather*, that there be a certain percentage of active ingredient. The Examiner believes that the prior art meets these percentages. The Examiner believes that Applicant's arguments seem to be based on language found in dependent claim 7 – which language is not recited in the independent claims. Therefore, the EP and GB reference are still be used to reject the instant claims.

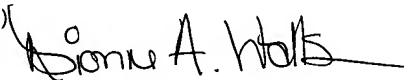
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne A. Walls whose telephone number is (571) 272-1195. The examiner can normally be reached on Mon-Fri, 7AM - 4:30PM (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on (571) 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1731

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)



Dionne A. Walls
Primary Examiner
Art Unit 1731

June 14, 2004